

### REMARKS

Claims 1-4, 9 and 11-26 remain in the application. As indicated above, claims 1-12 have been amended to more clearly define the present invention.

Claims 1-4 and 9, 11 – 26 have been rejected under 35 USC 103(a) as being unpatentable over Burns in view of Harris and Beaudoin et al. Applicant respectfully argues that as now presented the claims clearly distinguish over and are not obvious in view of any reasonable combination of the cited references for reasons previously argued and reincorporated herein by reference.

Applicant's method and system does not store information for later transfer to a computer as taught by Burns, and instead immediately transmits the information read from the run hour logger and magnetic port identifiers to the service truck's computer, which does all of the records keeping and computational work. Whereas the Burns probe is pre-programmed to instruct the operator as to the correct fuel type to be input to a particular fill port, Applicant's hand held reader provides no such function. In Applicant's system the hand held device merely communicates fill port information magnetically read at the fill port to the truck-carried computer, and the computer makes a determination and sounds either a confirming horn, or a warning alarm if the product about to be delivered is incorrect. Thus, although the two systems may accomplish a similar overall result they do it in a different manner and use different equipment. Applicants therefore submit that the claimed system is not met by or suggested by Burns.

Beaudoin et al disclose an operator communication system in which a transceiver carried by the operator allows two-way communication of information between the operator and a tank truck receiver or base receiver. The operator can input fill tank information via a touch pad interface or obtain information using a bar code reader. In any event, the operator must be trained to use the electronic communications device. This reference merely discloses an ordinary two-way communication facility for allowing an operator to obtain and then communicate information to a remote computer. This system is hardly passive in that it requires substantial user interaction with the handheld transceiver. To combine this teaching with Burns would do no more than provide communications capability to the Burns system. The resulting system would not be simpler but would in fact be more complex.

Although Harris discloses a device similar to that used in the present invention as a rugged, convenient and inexpensive means for magnetically encoding data, there is no teaching in any of the references that would lead one of skill in the art to combine the three

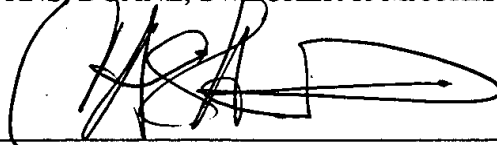
references to arrive at Applicant's claimed invention. It is only through forbidden hindsight following a reading of Applicant's disclosure that the combination appears obvious.

As pointed out in Applicant's disclosure, a principal objective of the present invention is to provide an almost entirely passive system in which an unskilled and/or minimally trained operator can perform a servicing operation and do nothing more than attach a reader to a magnetic fill port information source, stick a fill hose nozzle in a fill port and commence refueling the vehicle unless he hears a warning horn sounded by the service truck informing him that he has the wrong hose for the present fill port.. This is an important distinction because it allows a heavy equipment operator to employ very low skilled workers to do an important part of the heavy machine industry's work; namely, keeping the equipment fueled and lubricated at low labor cost. Applicant's system is simple in both structure and use, and is relatively inexpensive to manufacture and use, yet gets the job done at an overall cost that the systems of Burns, Beaudoin et al and/or Harris either alone or in combination can not come close too.

Applicant therefore submits that the claims as now amended are not disclosed or suggested by the references and thus define over the cited prior art. Reconsideration is requested. In the event that a telephone conference would expedite prosecution of the application, the Examiner is respectfully invited to contact the undersigned by telephone at the number set out below.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS LLP

A handwritten signature in black ink, appearing to read 'Claude A. S. Hamrick', written over a horizontal line.

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